

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
June 2, 2009**

Place: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Bigelow Spain, Hutchison, Finke, Grimes,

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat

Mr. Bigelow served as Acting Chairman and read the following agenda item:

Business Site Plan Application #269, Land Filling & Regrading Application #225, Post Road Eleven, LLC, 1292 Boston Post Road. Proposing to raze the existing building, and construct a new two-story building with associated landscaping, parking, regrading and reconstruction of a retaining wall along the rear property boundary, and perform related site development activities. ***POSTPONED.***

GENERAL MEETING

Mr. Bigelow then read the first general meeting agenda item:

Mandatory Referral #3-2009, Board of Selectmen, Purchase of Land for Sewer Easement, Goodwives River Road.

Acquisition of 0.071 Acres of Vacant Land on Goodwives River Road for a Sanitary Sewer Extension Project. *DEADLINE TO ISSUE REPORT: JULY 1, 2009.*

Commission members noted that a permit has previously been granted for the project. This Mandatory Referral involves the purchase of a small piece of land to facilitate the construction and installation of the sewer line. It was noted that this small parcel of land is not a building lot and there is no apparent problem with the acquisition of this land by the Town. After further discussion, the following motion was made: That the Planning & Zoning Commission approve the following report regarding the acquisition of property for this sewer project. The motion was made by Mr. Finke, seconded by Mrs. Grimes and unanimously approved.

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
BOARD OF SELECTMEN
POSSIBLE ACQUISITION 0.071 ACRES ON
GOODWIVES RIVER ROAD FOR SEWER PROJECT
JUNE 2, 2009**

Mandatory Referral #3-2009, Board of Selectmen, Purchase of Land for Sewer Easement, Goodwives River Road.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 2.

Acquisition of 0.071 Acres of Vacant Land on Goodwives River Road for a Sewer Extension Project. *DEADLINE TO ISSUE REPORT: JULY 1, 2009.*

The subject request is for the proposed acquisition of 0.071 Acres of Vacant Land on Goodwives River Road for a Sewer Extension Project. The Town proposes to purchase this property in order to extend sanitary sewers as part of the Goodwives River Road sanitary sewer project.

The Planning & Zoning Commission approved the Goodwives River Road sewer project last year. As part of Mandatory Referral #1-2008, the Commission issued a report dated January 8, 2008, and later granted Coastal Site Plan Review #236 on October 7, 2008.

The subject property is shown as Parcel A1 on Map #4875 in the Darien Land Records. It is on Assessor's Map #49 as part of Lot #10 & 11, and is now part of 38 Goodwives River Road. The 0.071 acres is inclusive of Gorham's Pond.

This property acquisition is consistent with the 2006 Town Plan of Conservation & Development as amended. The Commission notes that the proposed areas scheduled for this sanitary sewer line extension are shown in blue on page A7-16 of the 2006 Town Plan of Conservation and Development.

Mr. Bigelow read the following agenda item:

Mandatory Referral #4-2009, Board of Selectmen, Land to be Acquired from the State of Connecticut DOT on Ledge Road/Boston Post Road, and road improvements in those areas.
Acquisition of 6,449± sq. ft. of State-owned Property Abutting Ledge Road and Boston Post Road to be Improved and Paved as Part of Off-site Road Improvements. *DEADLINE TO ISSUE REPORT: JULY 1, 2009.*

The discussion centered around the fact that the State of Connecticut actually owns this land and it is excess right-of-way along the turnpike (I-95). The contractor working for Whole Foods Market is required to make certain improvements in Ledge Road, and to do so, they need permission from the property owner. The plan is to convey ownership from the State of Connecticut Department of Transportation (DOT) to the Town of Darien so that this land becomes part of the Ledge Road right-of-way. Then the permits for the modifications to Ledge Road will be issued by the Town (which is a much quicker process than obtaining a permit from the Connecticut Department of Transportation). After further discussion, the following motion was made: That the Commission adopt the following report regarding the acquisition of land along Ledge Road. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
BOARD OF SELECTMEN
ACQUISITION OF LAND
ABUTTING LEDGE ROAD AND BOSTON POST ROAD
JUNE 2, 2009**

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 3.

Mandatory Referral #4-2009, Board of Selectmen, Land to be Acquired from the State of Connecticut DOT on Ledge Road/Boston Post Road, and widening in those areas.

Acquisition of 6,449± sq. ft. of State-owned Property Abutting Ledge Road and Boston Post Road to be Improved and Paved as Part of Off-site Road Improvements

DEADLINE TO ISSUE REPORT: JULY 1, 2009.

The subject request is for the proposed acquisition of 6,449± sq. ft. of State-owned Property Abutting Ledge Road and Boston Post Road to be improved and paved as part of off-site road improvements. The acreage consists of two parcels. The first is along Ledge Road, and consists of 6,104+/- square feet. Parcel No. 2 consists of 345+/- square feet on Boston Post Road, close to the Ledge Road intersection. Overall, the area to be conveyed from the State of Connecticut to the Town of Darien at no charge is shown on a map entitled, "Town of Darien Map showing Land Released to the Town of Darien by the State of Connecticut Department of Transportation Boston Post Road (US Route 1) at Ledge Road", scale 1"=40', dated July 2008 and last revised 10/14/08.

This actual road widening would be done by Whole Foods Market as part of their improvements required in the Commission's approval of Business Site Plan #249-A/Special Permit; Land Filling & Regrading Application #173-A, on October 30, 2007.

This proposal is consistent with the 2006 Town Plan of Conservation & Development, as amended. Pages 4-3, A4-18, A4-19, A4-20 and A9-13 reference the need to move traffic efficiently, especially along collector roads, and the need for road improvements in the Ledge Road/Boston Post Road area.

Mr. Bigelow read the following agenda item:

Brief Discussion with Mohammed Zia, CL&P.

Mohammed Zia, Account Executive of Connecticut Light & Power (CL&P), discussed the fact that there are many cables and utility lines running within Town rights-of way for streets. Some of these lines are buried underground and some are overhead. The typical 300 KVH transformer is relatively small. Becoming more popular though is a 500 KVH transformer that is much larger. These transformers must be located in positions that are accessible to the workers and yet it is desirable to have the transformers as concealed as practical. To provide adequate access, they need at least a 10 foot clearance on the front of the transformer, three foot clearances on the side and a 5 foot clearance to the rear of the transformer. These larger transformers are typically installed to service a number of different properties.

Commission members indicated a desire to work with CL&P to develop a long range plan to foresee future development needs and electrical power needs so that CL&P can properly plan for group use of public utilities. The Commission members noted that it would be good to have CL&P involved in the early stages of the development design so that transformer capacity can be incorporated into the early thinking. Mr. Zia said that pricing of the transformer facilities is often difficult because the current developer does not want to pay the extra expense of having extra capacity for future developments in the area.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 4.

When asked about the possibility of installing these transformers underground, Mr. Zia said that it is possible to have these transformers underground, but it is more expensive and there is also a need for a second means of access or entrance to the transformer. Commission members noted that it is critical to have the transformers part of the original plan to avoid modifications of the site plan after the approvals have been granted.

Commission members were told that CL&P is always trying to increase the reliability by repairing of existing service lines and transformers before they break. Commission members felt it was important that CL&P work with Yankee Gas to coordinate the installation of underground utilities.

Mr. Bigelow read the following agenda item:

Update on Stony Brook Tributary Flood Control Project

Mr. Ginsberg informed the Commission that the Department of Public Works is proceeding with this project and have applied to the Environmental Protection Commission for permits for work in and adjacent to wetland and watercourses. The Public Works Department will soon be applying to the Planning & Zoning Commission for permits that involve regrading. The possibility of a joint public hearing was discussed, but it was noted that the EPC will be deciding the matter based on its limited jurisdiction and the Planning & Zoning Commission will be deciding based on its jurisdiction. It was concluded that it would be better that the Planning & Zoning Commission conduct its own public hearing after the EPC has rendered its decision. Mr. Ginsberg said that he could provide a copy of the minutes and the report from the EPC, and Commission members suggested that it might be helpful to have an EPC representative present at the Planning & Zoning Commission hearing. Commission members believed that it was important to keep this project moving and not allow it to be stalled or delayed.

Mr. Bigelow read the following agenda item:

Mandatory Referral #5-2009, Hoyt Street Partners. Hoyt Street/Wakemore Street.

Report Request for street improvements and sewer line extensions.

DEADLINE TO ISSUE REPORT: 6/26/2009.

Mrs. Grimes indicated that she is an adjacent property owner to the project and will therefore not participate in any discussion regarding this project.

Commission members noted that this was an unusual referral under Section 8-24 of the Connecticut General Statutes because it is coming from the private developer rather than the Town. Mr. Spain said that the pending application before the Planning & Zoning Commission is scheduled to continue on June 9th. He said that the Commission should not make a report regarding this referral until either June 9th or June 23rd. It was noted that the deadline for submitting the report is June 25th.

No action on this matter was taken at this time. Mrs. Grimes returned to the meeting.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 5.

Discussion, deliberation, and possible decision regarding:

Mr. Bigelow read the following agenda item:

Commission members noted that they have a number of draft Resolutions regarding various applications. The following motion was made: That the Commission waive the process of reading each draft Resolution aloud because each member has received the drafts prior to the meeting and has had an opportunity to review those draft Resolutions. The motion was made by Mr. Spain, seconded by Mr. Finke and unanimously approved.

Special Permit Application #251-A, Joan Davey, 192 Middlesex Road. Proposing to create a 25' x 45' terraced/blacktopped area in the backyard for a basketball court with associated drainage and perform related site activities. The subject property is on the south side of Middlesex Road, approximately 150 feet west of its intersection with Edgerton Street, and is shown on Assessor's Map #22 as Lot #77, in the R-1/2 Zone. *DECISION DEADLINE: 7/2/2009.*

Mr. Hutchison recused himself and indicated that he would not participate in the discussion or decision.

Commission members noted that the basketball court would only be used during daylight hours rather than daytime hours. The draft was corrected accordingly. Mr. Ginsberg noted that the issue here is balancing the neighbor concerns with the court that is approvable with respect to the setback and other requirements, provided adequate landscaping and screening is installed. Mr. Bigelow noted that there are few, if any, other play courts located on small acreage lots. Mr. Finke said that it would be much better to have this small play court located in the back yard than the present hoop in the front driveway, which is much more typical. Mr. Spain noted that the location of the court is relatively neutral rather than being real close to any particular neighbor's house.

Mr. Spain noted that he had not been present for the public hearing, but had watched the video of the hearing and had reviewed the Minutes and all the materials regarding the application. He believed that he was qualified to vote on the application. The following motion was made: That the Commission adopt the following Resolution to approve the project. The motion was made by Mr. Finke, seconded by Mr. Spain. All voted in favor of the motion, except Mr. Hutchison who abstained.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 2, 2009**

Application Number: Special Permit Application # 251-A

Street Address: 192 Middlesex Road
Assessor's Map #22 Lot # 77

Name and Address of Property Owner:
and Applicant

Joan Davey
192 Middlesex Road
Darien, CT 06820

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 6.

Activity Being Applied For: Proposing to create a 25' x 45' terraced/blacktopped area in the backyard for a basketball court with associated drainage and perform related site activities.

Property Location: The subject property is on the south side of Middlesex Road, approximately 150 feet west of its intersection with Edgerton Street.

Zone: R-1/2

Date of Public Hearing: April 28, 2009

Deliberations occurred: May 12, 2009

Time and Place of Hearing: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 16 & 23, 2009

Newspaper: Darien News-Review

Date of Action: June 2, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 11, 2009

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to create a 25' x 45' terraced/blacktopped area (herein known as a "play court") in the southeast portion of her backyard for general use as a basketball court and play area, with associated drainage and perform related site activities. At the public hearing, the property owner was represented by Attorney Michael Nedder.
2. The proposed play court is defined as an accessory structure and is accessory to the principal use of the property which is a single family residence. This proposal requires a Special Permit under Section 405b of the Darien Zoning Regulations.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 7.

3. There is now an existing basketball hoop on the east side of the driveway at the front of the house and close to the neighboring property line (to the east). At the public hearing Commission members inquired about other areas near the driveway for a basketball hoop. It was noted that there was a safety concern due to overhead power lines that prevented the existing basketball hoop from being placed on the driveway near the existing Davey residence. The applicant's representative explained that the design of the garage doors also precluded the installation of the basketball hoop on the front of the garage. The play court in the backyard will replace the existing basketball hoop in the front driveway. Testimony was presented that the existing hoop in the driveway is bothersome to the immediate neighbor to the east and that it will be removed if this application is granted.
4. As part of this application, there will be a slight amount of regrading as the property owner cuts down or lowers part of the high area in order to make the play court area flat. Drainage (in the form of traprock) has also been proposed for the area all around the paved area.
5. During the public hearing, the Commission expressed concern about the design of the drainage, and wanted assurance that the neighbors would not be impacted by storm water runoff.
6. The Commission notes the need for the applicant to file a Notice of Drainage Maintenance Plan regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts to adjacent properties.
7. There are no lights proposed for the play court area. At the public hearing, it was noted that there will be no lights on the play court area and that it would be used in the daylight hours only.
8. The submitted plan shows that the existing property has a lot coverage of 8.66%. With construction of the proposed play court, lot coverage will still be under the 20% maximum allowed within this zone.
9. The property owner proposes to install plants to supplement the existing vegetation on the perimeter of the play court. Depending on the shade conditions, the screening plants proposed would be white pines or arborvitae. A large tree in the back corner of the property needs to be removed, but the large tree in the middle of the backyard will remain.
10. It was noted that the subject property is directly to the north of the Middlesex Middle School property owned by the Town of Darien. The proposed play court is proposed to be ten feet from the Middlesex Middle School property line.
11. At the public hearing, Mr. Jordan Costa of 6 Edgerton Street said that his backyard is adjacent to the proposed paved play court area and it would be unfair to allow the play court to be constructed in response to one neighbor's dislike of the existing basketball hoop. He also noted that stormwater runoff is a concern. Ms. Evelyn Haggart of 188 Middlesex Road was also concerned about the play court and its possible impacts. In response to concerns from the neighbors, it was mentioned that the positioning of the proposed court means that it is very unlikely that balls would travel from the proposed paved play court area to any other property.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 8.

It was noted that there could be netting or fencing to minimize the balls getting into any neighbor's properties.

12. As granted herein with stipulations, the play court will be in harmony with the orderly development of the district and will not adversely affect the development, use or value of adjacent land and buildings.
13. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
14. The proposal conforms to the standards for approval as specified in Section 1005(a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE, BE IT RESOLVED that Special Permit Application # 251-A is hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Construction of the play court and its associated drainage and plantings shall be in accordance with the following plan submitted to and reviewed by the Commission, *as required to be modified herein*:
 - Survey of Property for Brian P. and Joan M. Davey, 192 Middlesex Road by Roy Cary, with handwritten annotations showing proposed 25' x 45' play court area with one hoop and traprock surrounding the court, and five white pine or arborvitae.
- B. The Commission hereby requires the following plan modifications, including landscaping in order to minimize impacts to the neighbors. At least five six foot (6') tall arborvitae and/or equally dense white pine shall be planted around each of the north, east, and west sides of the court (total shall be at least fifteen plantings). The Commission is not requiring any plantings on the side of the court which faces Middlesex Middle School. These plantings are to supplement the existing vegetation in the area and shall be shown on revised plans to be submitted to the Planning and Zoning Director prior to the issuance of a Zoning or Building Permit. All of these plantings shall be properly installed prior to the issuance of a Certificate of Zoning Compliance or use of the play court and shall be maintained by the property owner. At the applicant's discretion, netting and or fencing may also be placed near the court area to minimize impacts to neighboring properties.
- C. In order to minimize impacts to neighbors, and as shown on the submitted plan, the location of the one single basketball hoop support post shall be on the south side of the play court (closest to the Middlesex Middle School property) and the portion of the support structure closest to the property line shall be located at least 12 feet from that south property line.
- D. The proposed play court construction does not involve the installation of any lights and no such lighting is hereby permitted.
- E. The plan submitted with the application includes the installation of traprock all around the court to manage the additional runoff to be created by the impervious surface. This trap rock must be installed prior to the completion of the project and/or use of the court. A professional engineer

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 9.

shall certify that this installation has been properly done prior to the issuance of a Certificate of Zoning Compliance or use of the play court.

- F. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- G. During the regrading and site work, the applicant shall utilize any sediment and erosion control measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- H. Upon completion of the work, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans. This shall include written certification from the project's professional engineer that the drainage facilities have been installed according to the approved plans.
- I. Before July 31, 2009, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. The actual plan shall be filed in the Planning & Zoning Department and/or in the Land Records. The drainage maintenance plan shall require the property owner and all subsequent property owners of 192 Middlesex Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well.
- J. In evaluating this application, the Planning & Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- K. The granting of this Special Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. A Zoning Permit will be necessary prior to the construction of the play court.
- L. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action by (June 2, 2010). This may be extended as per Section 1009.

All provisions and details of the plan, as required herein to be amended, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Within sixty days of this action AND prior to the

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 10.

issuance of a Zoning Permit, a Special Permit form and Drainage Maintenance Plan must be filed in the Darien Land Records, or this approval shall become null and void.

Mr. Bigelow read the following agenda item:

Special Permit Application #172-D/Site Plan, Darien Diner (former Driftwood Diner), 171 Boston Post Road. Proposing to construct first floor additions to the front of the existing building, install a handicap access ramp, and perform related site development activities.

Mr. Hutchison returned to the Commission. The Commission members believed that the proposed enclosure of the spaces near the front door were logical and noted that there would be no intensification of customer seating and no loss of the much needed parking area.

The following motion was made: That the Commission adopt the following Resolution to approve the project. The motion was made by Mr. Finke, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 2, 2009**

Application Number: Special Permit Application #172-D/Site Plan
Darien Diner (former Driftwood Diner)

Street Address: 171 Boston Post Road
Assessor's Map #12 Lot #35

Name and Address of Property Owner: Theodoros Giapoutzis/Darien Diner
c/o 171 Boston Post Road
Darien, CT 06820

Name and Address of Applicant: Loren Meyer, AIA
And Applicant's Representative: Sound Architecture, LLC
1051 Boston Post Road, #4
Darien, CT 06820

Activity Being Applied For: Proposing to construct first floor additions to the front of the existing building, install a handicap access ramp, and perform related site development activities.

Property Location: The subject property is on the northeast corner formed by the intersection of Richmond Drive and Boston Post Road.

Zone: SB-E Zone

Date of Public Hearing: April 28, 2009 continued to May 26, 2009

Time and Place: 8:00 P.M. Room 206 (4/28) Auditorium (5/26) Town Hall

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 11.

Publication of Hearing Notices

Dates: April 16 & 23, 2009
May 14 & 21, 2009

Newspaper: Darien News-Review

Date of Action: June 2, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 11, 2009

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 670, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct first floor additions to the front of the existing building, install a handicap access ramp, and perform related site development activities. The originally submitted application to the Planning & Zoning Commission had additional elements, such as the proposed expansion and use of the second floor, but those aspects of the application have been withdrawn, as they were not approved by the Zoning Board of Appeals.
2. As part of this application, the existing access ramp will be shifted slightly. There are no proposed modifications to the existing parking area. The proposed vestibule area will not increase the existing customer seating capacity.
3. A variance for this vestibule addition was granted in part with stipulations on April 22, 2009 as part of ZBA Calendar #73-2008. That decision is hereby incorporated by reference. The Architectural Review Board (ARB) approved proposed canopies and the proposed addition on January 21, 2009 as part of ARB #1-2009. That approval is also incorporated by reference.
4. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 12.

5. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
6. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
7. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #172-D/Site Plan is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and use shall be in accordance with the following plans as submitted to the Commission:
 - Front Entrance Renovation and Addition For: Darien Diner, 171 Post Road, by Sound Architecture, last revised 01/14/09, Drawings No. A-0 through A-6. (words crossed off the proposed canopies on pages A-4, A-5, and A-6 per ARB approval). The originally submitted application to the Planning & Zoning Commission had additional elements, such as the proposed expansion and use of the second floor, but those aspects of the application have been withdrawn, as they were not approved by the Zoning Board of Appeals.
- B. All conditions and stipulations of past permits and approvals remain in effect. The enclosure of the covered front entrance areas to expand the entry vestibule, modification of the access walkway/ramp, and the installation of awnings are the only changes being approved by this action of the Commission.
- C. Any change in the maximum hours requires prior review and action by the Planning & Zoning Commission as an amendment of this Special Permit. Expanded hours might not be acceptable due to the limited parking situation.
- D. Because of this restaurant's location immediately adjacent to a residential area, it is imperative that odor and noise be controlled and minimized so as not to become a nuisance.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this Special Permit approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 13.

regulating agency. This includes, but is not limited final clearance from the Health Department and Fire Marshal prior to the issuance of a Zoning and Building Permit for this project.

- G. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 2, 2010). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Bigelow read the following agenda item:

Special Permit Application #254/Site Plan, Rachel Haughey d/b/a Espresso Neat, 20 Grove Street. Proposing to establish a coffee house in the space formerly occupied by JD Cosmetics and to place outdoor tables and chairs on the 20 Grove Street property.

Commission members noted that the outdoor furniture must be properly maintained in its approved location so that it does not adversely affect pedestrian walkways. The following motion was made: That the Commission adopt the following Resolution to approve the project. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 2, 2009**

Application Number: Special Permit Application #254/Site Plan
Rachel Haughey d/b/a **Espresso Neat**, 20 Grove Street

Street Address: 20 Grove Street
Assessor's Map #73 as Lot #22

Name and Address of Applicant: Rachel Haughey
319 Rowayton Avenue
Rowayton, CT 06853

Name and Address of Property Owner: Penny Glassmeyer
23 Butler's Island Road
Darien, CT 06820

Activity Being Applied For: Proposing to establish a coffee house in the space formerly occupied by JD Cosmetics and to place outdoor tables and chairs on the 20 Grove Street property.

Property Location: The subject property is located on the north side of Grove Street, directly across from its intersection with Brook Street.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 14.

Zone: CBD Zone

Date of Public Hearing: May 26, 2009

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: May 14 & 21, 2009

Newspaper: Darien News-Review

Date of Action: June 2, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 11, 2009

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans/sketches, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to establish a coffee house in the first floor space formerly occupied by JD Cosmetics and to place four outdoor tables and twelve outdoor seats on the 20 Grove Street property. A coffee house, like any food service use, is a Special Permit use within the CBD Zone.
2. As part of application Business Site Plan #234-A/Special Permit, two buildings on site were approved. One of the findings of the Planning and Zoning Commission in that approval was that "...the application does not include a proposal for a restaurant. Thus, any future proposal for a restaurant or food service use in either of the two proposed buildings will be the subject of a separate Special Permit application to the Planning and Zoning Commission."
3. As part of the application materials, the applicant gave specifics regarding the proposed maximum hours of operation, as well as the proposed indoor and outdoor seating.
4. The proposed tables and chairs are on property owned by Grove Street Plaza, LLC, and are not within the designated public Open Space Plaza between the two buildings.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 15.

5. Maintenance of the trash containers will be the sole responsibility of Grove Street Plaza, LLC, or any subsequent owners. The Town of Darien will not accept responsibility for maintenance of trash removal or the condition of the dumpster enclosures.
6. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
7. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
9. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #254/Site Plan is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Interior fit-up, use, and placement of outdoor tables and chairs shall be in accordance with the following plans as submitted to the Commission:
 - Portion of plan entitled, "Property Survey prepared for Grove Street Plaza, LLC", by William W. Seymour & Associates, last dated October 6, 2005, with hand annotations showing the placement of four tables and ten chairs.
 - Draft floor plan, 8 1/2" x 11", undated.

It is noted that the specific business floor plans may need to be modified to accommodate the Darien Health Department and Fire Marshal. The only allowed use in the basement is storage, and specifically no food preparation, office, employee lockers or other use is permitted.

- B. The proposed and herein approved use is limited to Espresso Neat, a coffee shop, as described in the application materials and at the public hearing. It is a unique type of use that should function well, given the constraints of this particular site. This approval is not for a restaurant in general, but is limited to that which was specifically proposed. Changes in the operation with respect to food preparation; cooking facilities; distribution of seating or floor area devoted to the dining area, kitchen, storage, etc; or other aspects of the use are not permissible without prior approval from the Commission. If cooking facilities such as a grill or fryer is added, then special odor controlling hood with filters and venting systems would be required.
- C. The maximum hours of operation of the coffee shop, as proposed by the applicant within the submitted application materials, shall be from 6am-10pm Monday through Friday; and 7am-

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 16.

10pm Saturdays. Any change in the maximum hours requires prior review and action by the Planning & Zoning Commission as an amendment of this Special Permit.

- D. The application materials submitted by the applicant note a request for outdoor seating in the form of ten chairs and a bench—a total of twelve seats, along with four tables. There shall be no wait staff service provided to patrons using the outside tables and seating, but the operator of the business shall be responsible for the cleaning and maintenance of the outside area utilized by patrons. It is the owner's responsibility to make sure that the tables and chairs remain in the approved areas. There is indoor seating for twenty-one (21) patrons. Any increase in either indoor or outdoor seating would need prior review and action by the Planning & Zoning Commission as an amendment of this Special Permit, and might not be acceptable due to the limitations of the site. The outdoor tables and chairs shall be placed as specifically shown on the submitted plan as noted in Condition A above, so as not to impede pedestrian flow in the area.
- E. The applicant shall contract for removal of recyclables and trash from the dumpster area as often as necessary, and shall make reasonable efforts to schedule such collections to avoid nuisance to the nearby residents and avoid conflicts with the parking needs of adjacent businesses.
- F. Because of this restaurant's location immediately adjacent to a Clock Hill Homes, it is imperative that odor and noise be controlled and minimized so as not to become a nuisance.
- G. Proposed signage for the business shall be designed to comply with the applicable Zoning Regulations and is subject to review and action by the Architectural Review Board and the necessary Zoning Permit. The design of the outdoor trash cans, tables, chairs and any associated umbrellas is also subject to review and action by the Architectural Review Board.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this Special Permit approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes final clearance from the Health Department prior to the issuance of a Zoning and Building Permit for this project.
- J. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 2, 2010). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action and prior to the issuance of a Zoning and Building Permit for the tenant fit-up, or this approval shall become null and void.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 17.

Mr. Bigelow read the following agenda item:

Coastal Site Plan Review #177-A, Flood Damage Prevention Application #188-A, Judith Snow, 31 Shipway Road. Proposing to raze the existing fire-damaged residence, and construct a new single-family residence, renovate the existing pool and spa, and perform related site development activities within regulated areas.

The Commission noted that there are no coastal impacts due to the proposed work. They saw no problems with the project. The following motion was made: That the Commission adopt the following Resolution to approve the project. The motion was made by Mr. Finke, seconded by Mrs. Grimes and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 2, 2009**

Application Number: Coastal Site Plan Review #177-A
Flood Damage Prevention Application #188-A

Street Address: 31 Shipway Road
Assessor's Map #55 Lot #129

Name and Address of Property Owner: Judith Snow
And Applicant: 31 Shipway Road
Darien, CT 06820

Name and Address of Steve McAllister
and Applicant's Representative: McChord Engineering
1 Grumman Hill Road
Wilton, CT 06897

Activity Being Applied For: Proposing to raze the existing fire-damaged residence, and construct a new single-family residence, renovate the existing pool and spa, and perform related site development activities within regulated areas.

Property Location: The subject property is located on the north side of Shipway Road approximately 300 feet east of its intersection with Plymouth Road.

Zone: R-1

Date of Public Hearing: May 26, 2009

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: May 14 & 21, 2009

Newspaper: Darien News-Review

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 18.

Date of Action: June 2, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 11, 2009

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to raze the existing fire-damaged residence, and construct a new single-family residence, renovate the existing pool and spa, and perform related site development activities within regulated areas. The new house will be constructed at least one foot above the base flood elevation.
2. There is no activity proposed within 100 feet of mean high water. The State of Connecticut DEP Office of Long Island Sound Programs sent an e-mail regarding this application dated May 26, 2009. In that e-mail, they note they do not have any comments at this time.
3. During the public hearing, it was noted by the applicant's representative that the air conditioning unit shown on the submitted plan can be shifted to comply with the setbacks.
4. As part of the proposed drainage system, the applicant will be tying the roof leaders of the house to a proposed underground detention system to be placed near the northern property line. A cleanout/high level overflow grate will also be placed in that vicinity.
5. The Commission notes the need for the applicant to file a Notice of Drainage Maintenance Plan regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts to adjacent properties.
6. The potential adverse impacts of the proposed activity upon coastal resources, as designed are minimal and are therefore acceptable.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 19.

7. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
8. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
9. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
10. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Amendment of Coastal Site Plan Review #177-A and Flood Damage Prevention Application #188-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and related activity shall be in accordance with the following plans:
 - Site Development Plan, 31 Shipway Road, plan prepared for Judith S. Snow, by McChord Engineering Associates, Inc., last revised 5-20-09, Drawing No. SE-1.
 - New Residence 31 Shipway Road by Bartels.Pagliaro Architects, LLC, last revised 5-15-09, Sheets Numbers 2 and 3 of 4.The Site Development Plan shall be modified so that the generator, AC units and pool equipment meet the applicable setbacks.
- B. In conjunction with the Zoning and Building Permit applications, all drawings shall illustrate the flood damage prevention measures to be utilized in the construction of the new residence. The plans shall be accompanied by a certification letter from a licensed architect and/or engineer that verifies that the final design complies with the applicable requirements to minimize flood damage.
- C. Before August 2, 2009, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. The actual plan shall be filed in the Planning & Zoning Department and/or in the Land Records. The drainage maintenance plan shall require the property owner and all subsequent property owners of 31 Shipway Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well.
- D. After the foundation for the new residence has been installed, an “as-built” survey must be submitted to verify compliance with the setback and floor elevation requirements.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 20.

- E. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer or architect that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations. A final "as-built" survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations. A Professional Engineer shall certify in writing that the installation of the proposed drainage facilities has been properly completed in accordance with the approved plans.
- F. During construction, the applicant shall utilize sediment and erosion controls as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- H. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 1, 2010). This may be extended as per Sections 815 and 829f.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the approved plan by the Chairman. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the proposed issuance of Zoning and Building Permits, or this approval shall become null and void.

Discussion and deliberation only regarding:

Mr. Bigelow read the following agenda item:

Flood Damage Prevention Application #272, Land Filling & Regrading Application #226, Joanne Frawley, 37 Greenwood Avenue. Proposal to construct additions and alterations to the existing residence, to fill and regrade in association with the driveway and parking area, and perform related site development activities within a regulated area.

Commission members noted that there are numerous aspects to this project and several approvals have already been obtained from the Zoning Board of Appeals and Environmental Protection Commission. They noted that the relocation of the storm drainage pipe must be done properly and

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JUNE 2, 2009
PAGE 21.

with all necessary permits from the Public Works Department. They asked the staff to draft a Resolution for action at a future meeting.

Mr. Bigelow read the following agenda item:

Approval of Minutes

May 12, 2009 General Meeting

Several minor modifications and typographical errors were noted and corrections were agreed upon. The following motion was made: That the Commission adopt the revised and corrected version of the Minutes of May 12, 2009. The motion was made by Mr. Finke, seconded by Mr. Hutchison. All voted in favor except Mr. Bigelow because he had not attended the May 12th meeting.

Mr. Bigelow read the following agenda item:

**Discussion of Proposal for Conceptual Design Services for Mixed-Use Development—
Proposed Study regarding Old King's Highway South (existing OB Zone near downtown)**

Commission members felt it would be appropriate to postpone this discussion until next week when the Chairman, Mr. Conze, could be present. All agreed.

Any Other Business (Requires two-thirds vote of Commission)

There being no further business, the meeting was adjourned at 9:15 P.M.

Respectfully submitted,

David Keating
Assistant Planning & Zoning Director

Pzc\alm\06022009min